

**IN THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT
OF TEXAS MARSHALL DIVISION**

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-203-JRG
vs.)	
)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.;)	
MICRON SEMICONDUCTOR)	
PRODUCTS, INC.; MICRON)	
TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	

**DECLARATION OF STEPHEN M. PAYNE IN SUPPORT OF
PLAINTIFF NETLIST, INC.'S OPPOSITION TO MICRON'S MOTION FOR
SUMMARY JUDGMENT OF NO PRE-SUIT DAMAGES (DKT. 281)**

I, Stephen M. Payne, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Plaintiff Netlist, Inc. ("Netlist") in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice *pro hac vice* before this Court in this action. I provide this declaration in support of Netlist's Opposition to Micron's Motion for Summary Judgment of No Pre-Suit Damages (Dkt. 281). I have personal knowledge of the facts stated herein, and could and would testify completely thereto if called as a witness in this matter.

2. Attached as **Exhibit 1** is a true and correct copy of NL-MIC-203_00042010 produced by Netlist in this case.

3. Attached as **Exhibit 2** is a true and correct excerpted copy of Exhibit B, Opening Expert Report of Dr. Mangione-Smith, dated October 4, 2023.

4. Attached as **Exhibit 3** is a true and correct excerpted copy of the Deposition Transcript of Scott Milton, dated September 1, 2023.

5. Attached as **Exhibit 4** is a true and correct copy of U.S. Patent No. 11,016,918.

6. Attached as **Exhibit 5** is a true and correct excerpted copy of the Deposition Transcript of Scott DeBoer, dated September 7, 2023.

7. Attached as **Exhibit 6** is a true and correct excerpted copy of the Deposition Transcript of Boe Holbrook, dated August 30, 2023.

8. Attached as **Exhibit 7** is a true and correct excerpted copy of the Deposition Transcript of Samir Mittal, Ph.D., dated November 15, 2023.

9. Attached as **Exhibit 8** is a true and correct copy of NL-MIC-203_00042083 produced by Netlist in this case.

10. Attached as **Exhibit 9** is a true and correct copy of NL-MIC-203_00042085 produced by Netlist in this case.

11. Attached as **Exhibit 10** is a true and correct copy of NL-MIC-203_00042009

produced by Netlist in this case.

12. Attached as **Exhibit 11** is a true and correct excerpted copy of the Deposition Transcript of Noel Whitney, dated February 3, 2017 (NL-MIC-203_00046468).

13. Attached as **Exhibit 12** is a true and correct excerpted copy of the Deposition Transcript of Chuck K. Hong, dated September 20, 2023.

14. Attached as **Exhibit 13** is a true and correct copy of MICNL203-00082052 produced by Micron in this case.

15. Attached as **Exhibit 14** is a true and correct copy of a Netlist letter to Micron Technology dated April 28, 2021, produced at NL-MIC-203_00030433.

16. Attached as **Exhibit 15** is a true and correct copy of Exhibit A, Netlist Issued Patents with JEDEC Rand Licensing Assurance, produced at NL-MIC-203_00030437.

17. Attached as **Exhibit 16** is a true and correct copy of U.S. Patent No. 11,232,054.

18. Attached as **Exhibit 17** is a true and correct excerpted copy Micron's Fourth Supplemental Responses and Objections to Plaintiff Netlist Inc.'s First Set of Interrogatories, dated September 14, 2023.

19. Attached as **Exhibit 18** is a true and correct copy of the Declaration of Noel Whitney, dated November 27, 2023.

20. Attached as **Exhibit 19** is a true and correct excerpted copy of the Deposition Transcript of Frank Ross, dated August 17, 2023.

21. Attached as **Exhibit 20** is a true and correct copy of MICNL203-00196943 produced by Micron in this case.

22. Attached as **Exhibit 21** is a true and correct excerpted copy of the Rebuttal Expert Report of Peter Gillingham, dated October 30, 2023.

23. Attached as **Exhibit 22** is a true and correct copy of the Declaration of Scott Milton, dated November 27, 2023.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 28, 2023, in Newport Beach, California.

By /s/ *Stephen M. Payne*
Stephen M. Payne